

## MINUTES OF THE REGULAR MEETING OF SEPTEMBER 14, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 14, 1995, at 7:30 P.M., in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II. Joel Leidy, Ex-Officio member, was also present on behalf of the Secretary of the Department of Transportation.

### II. PUBLIC HEARINGS

#### 1. RE: C/U #1132--Mt. Zion A.M.E. Corp.

Thomas Brown, President of New Hope Recreation and Development Center, and Harold Truxon, President of Mt. Zion A.M.E. Corp., were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for a Recreation, Youth and Adult Education Center lying on the west side of Route 213, 200 feet north of Route 16 on a parcel containing 3.03 acres more or less.

Mr. Lank summarized comments received from the County Engineering Department.

Mr. Brown stated that no expansions to the building are proposed, that the center is currently being housed in a Church Hall, that the center provides recreational activities, bus trips, lunches, and tutorial instruction, that typically the center is operational from 11:00 AM to 4:00 PM, that one of the office spaces referenced on the floor plan is used for tutoring, and the other office space area is used for indoor recreation, that outdoor recreation is provided, that several grants has been received for improvements to the building, that the center has operated from the church hall for approximately eight years, and that a new septic system has recently been installed at the proposed site.

No parties appeared in opposition.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from the County Engineering Department, that the site is located in a proposed sanitary sewer district and that sewer service will not be available unless a referendum is approved in the future.



The Commission found that the application was represented by the president of the corporation and the president of the New Hope Recreation and Development Center who advised the Commission that no expansions to the building are proposed, that the center is currently being housed in a Church Hall, that the center provides recreational activities, bus trips, lunches, and tutorial instruction, that typically the center is operational from 11:00 AM to 4:00 PM, that one of the office spaces referenced on the floor plan is used for tutoring, and the other office space area is used for indoor recreation, that outdoor recreation is provided, that several grants has been received for improvements to the building, that the center has operated from the church hall for approximately eight years, and that a new septic system has recently been installed at the proposed site.

The Commission found that no parties appeared in opposition.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan be subject to review and approval of the Planning and Zoning Commission.

2. RE: C/Z #1263--Fred J. and Bonita Taylor

Fred J. and Bonita Taylor were present on behalf of their application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broad Creek Hundred, located at the southwest corner of Route 13A and Route 485, to be located on a parcel containing 4.09 acres more or less.

Mr. Lank summarized comments received from the Department of Transportation.

Mr. Taylor stated that he proposes to establish a used car sales facility on the site and commercial green houses, that he has converted a barn behind his dwelling for a repair shop, that for the last five years he and his wife have raised mums for sale on the site along Route 13A, that they have lived on the site for 20 years and have continues to improve the site and purchased additional lands to expand the site acreage, that the site is in close proximity to numerous other commercial uses and zones on both Route 13A and U.S. Route 13, and that they are not planning to be open on week-ends.

No parties were present in opposition.

At the conclusion of the public hearings, the Chairman referred back to this application.



The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from the Department of Transportation, that the department does not support the creation of large commercial zones in rural areas, and that the department will not require a traffic impact study if the site is less than 6.79 acres.

The Commission found that the applicants were present and stated that he proposes to establish a used car sales facility on the site and commercial green houses, that he has converted a barn behind his dwelling for a repair shop, that for the last five years he and his wife have raised mums for sale on the site along Route 13A, that they have lived on the site for 20 years and have continues to improve the site and purchased additional lands to expand the site acreage, that the site is in close proximity to numerous other commercial uses and zones on both Route 13A and U.S. Route 13, and that they are not planning to be open on week-ends.

The Commission found that no parties were present in opposition.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since other commercial uses and zones exist in the general area.

3. RE: C/Z #1264--Joseph J. Balsamo

Joseph J. Balsamo and D. Stephen Parsons, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Baltimore Hundred, located on the southwest side of Road 54, 3,200 feet southeast of Road 58B, to be located on a parcel containing 33,112 square feet more or less.

Mr. Lank summarized comments received from the County Engineering Department and the Department of Transportation.

Mr. Parsons and Mr. Balsamo stated that the site is adjacent to a parcel recently rezoned to B-1 Neighborhood Business, that the majority of the uses in the area are commercial or business oriented, that no negative impact is anticipated on the neighborhood, that the dwellings on the site are in poor condition, that the site will be cleared to construct a building to house four retail stores, that a need exist for retail stores in the area based on calls received for store space, that the site has adequate space for parking, that the proposed building



should cost in the \$200,000 range, that the use should increase property values, that parking conditions will be improved, that the existing bulkhead needs to be repaired, and that the building will be one story tall.

Mr. Parsons submitted photographs of the site and the area, and copies of a Delaware Court of Chancery decision referring to ownership of the property.

Don Conaway, Real Estate Broker and a landowner from Keen-Wik Subdivision spoke in support of the applicant and referred to how well maintained the applicant's properties are within the Town of Fenwick Island.

Charles Rizk, adjoining landowner on the west side, stated that he was not opposed to the application and only questioned the size and location of the building and parking.

No parties appeared in opposition.

At the conclusion of the public hearing, the Chairman referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from the County Engineering Department, that the proposal is located in the Fenwick Island Sanitary Sewer District and that service is available, that the property is currently assessed for 1.0 EDU each, that any increases in these assessments will require payment of connection charges, and that the current connection charge per EDU is \$2,271.00.

The Commission found, based on comments received from the Department of Transportation, that the Department is concerned about traffic on Route 54, the number of possible trips generated by the site, that if the County approves the application the County will have little basis for denying similar applications between Sussex 381 and Fenwick Island, that the resulting commercial strip development may significantly reduce the carrying capacity of Route 54, that DelDOT does not recommend a traffic impact study since the use offers nothing to study, that DelDOT is concerned about the eventual consequences of the rezoning and recommend that the County deny the application, and that DelDOT recognize that there may be equity arguments that the County will have to consider.



The Commission found that the applicant was present with an attorney and stated that the site is adjacent to a parcel recently rezoned to B-1 Neighborhood Business, that the majority of the uses in the area are commercial or business oriented, that no negative impact is anticipated on the neighborhood, that the dwellings on the site are in poor condition, that the site will be cleared to construct a building to house four retail stores, that a need exist for retail stores in the area based on calls received for store space, that the site has adequate space for parking, that the proposed building should cost in the \$200,000 range, that the use should increase property values, that parking conditions will be improved, that the existing bulkhead needs to be repaired, and that the building will be one story tall.

The applicant's attorney submitted photographs of the site and the area, and copies of a Delaware Court of Chancery decision referring to ownership of the property.

The Commission found that a real estate broker/landowner from Keen-Wik Subdivision spoke in support of the applicant and referred to how well maintained the applicant's properties are within the Town of Fenwick Island.

The Commission found that an adjoining landowner on the west side of the property stated that he was not opposed to the application and only questioned the size and location of the building and parking.

The Commission found that no parties appeared in opposition.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously that this application be forwarded to the Sussex County Council with the recommendation that it be approved since B-1 Neighborhood Business zoning and uses exist adjacent to the site and in close proximity.

4. RE: APD #95-9--Julian M. Smith, Herbert B. Smith, Jr. & William H. Smith

William Smith and Julian Smith were present on behalf of this application to consider the an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred for three (3) parcels totalling 381.88 acres more or less, located southeast of Route 16, 1,000 feet southwest of Route One, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Criteria Checklist/Staff Report received from the Delaware Agricultural Lands Preservation Foundation.



William Smith stated that the family wants the site to remain in agricultural and that the campground is not a part of the proposed District.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved.

5. RE: APD #95-10--Alden S. and Marilyn B. Hopkins

Alden S. and Marilyn B. Hopkins were present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred for four (4) parcels totalling 360.96 acres more or less, located on the north and south side of Road 262, between Road 286 and Road 261, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Criteria Checklist/Staff Report received from the Agricultural Lands Preservation Foundation.

Mr. Hopkins stated that they built the covered bridge on the farm to name the farm, that they permit the radio controlled airplane club at no charge, that the radio control planes are not a nuisance and not impacting on the farm or the neighborhood.

Ms. Elva Short, adjoining landowner spoke in support and added that farming is an educational process and that she supports saving farmland.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to forward this application to the Agricultural Lands Preservation Foundation with the recommendation that it be approved.

III. OTHER BUSINESS

1. East Atlantic Apartments

The Commission reviewed a multi family complex site plan on Road 270 near Rehoboth.

Mr. Abbott advised the Commission that the site plan has six apartment buildings with seventy total units for Phase 1, two apartment buildings with twenty four units for Phase 2, that adequate parking spaces are provided, that the site plan meets the requirements of the zoning code, that building four in Phase 1 will need to be relocated to be a minimum of ten feet from the



rear property line, that the entrance plan has been approved by DelDOT, that the proposed use is a permitted use, and that if favorable, only preliminary approval be considered pending the relocation of building four and all required agency approvals and or permits being received.

Pret Dyer and Gary McCrea were present and advised the Commission that they plan to erect a six foot cyclone fence along the property line adjoining lands of Aspen Meadows manufactured home park, that the proposed units are setback 700 feet from Road 270, that the only entrance to the site is from Road 270, that lighting will be provided on site, that the lighting system is being designed by Delmarva Power and Light Company, that Phase 1 will be built at the same time, that Phase 2 will be built on demand, that the project will not be associated with the Delaware State Housing Authority, that the project will be similar to the Mill Chase project located in the Town of Millsboro, and that all units will be leased and not sold.

Mr. Abbott read letters from Chris Corrado and Ell-Cap Rehoboth Communities in opposition to the site plan.

Chuck Hughes, Mrs. Ferguson, Helen McAllister, Joan Hensen, Ernest Strine, and Dennis Woodenky, all area residents, spoke in opposition to the site plan expressing concerns about increases in traffic on Road 270, the entrance location, safety, increases in crime in the area, and trespassing.

Richard Anthony spoke in support of the site plan since the developers are not putting in any other uses that are permitted in commercial districts and that the site plan has less density than what is permitted and stated that there is a need for affordable housing in the area.

Mr. Schrader read letters from Ted Clark and Mabel Granke in opposition to the site plan and a letter from Richard Anthony in support of the site plan.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the stipulations that fencing be erected along the adjoining lands of Aspen Meadows and that adequate lighting be provided on the site.

## 2. Beaver Properties

The Commission reviewed a concept to create 18 lots on the southern side of Route 9, west of Route 5 near Harbeson.

Mr. Abbott advised the Commission that this concept requires



the Commissions approval since Route 9 is a major arterial roadway, that DelDOT has approved two entrance locations serving a thirty foot service road and that there are two other entrance locations.

Joel Leidy of the DelDOT Subdivision Office advised the Commission that his office has not approved the plan, that it was submitted to the South District Office, and that the concept is in violation of the Subdivision Ordinance and that it should not have been approved by DelDOT.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to deny the concept since it does not with the Subdivision Ordinance.

3. Jeanette Wingate

The Commission reviewed a concept to create two lots with access from a fifty foot right of way off of Route 26 east of Dagsboro.

Mr. Abbott advised the Commission that the right of way was approved by the Commission on September 22, 1994, to serve a one acre lot, that the right of way will be extended to the rear of the property and that parcels will be created on both sides of the right of way, and that any future subdivision should require a public hearing.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the two parcels and fifty foot right of way with the stipulation that any further subdivision will require a public hearing.

4. Lawrence W. McKinney

The Commission reviewed a concept to create 5 lots with access from a fifty foot right of way and three outlots for septic off of Road 52C and Route 17.

Mr. Abbott advised the Commission that three lots and the fifty foot right of way were approved by the Commission in 1988, and that the developer proposes to create two more lots and three outlots to serve as septic areas.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to deny this concept. It was the consensus of the Commission that a public hearing be required.

5. Harry Donovan - 3 lots on a fifty foot right of way Road  
620



Mr. Lank advised the Commission that this item has been removed from the agenda.

6. Webster Furniture

The Commission reviewed a commercial site plan for a motel and warehouse on Road 275A near Rehoboth.

Mr. Abbott advised the Commission that the parcel is split with the rear parcel being accessed by a thirty foot easement, that the front parcel is proposed for a 46 unit motel and that the rear parcel is proposed for a warehouse, that the site plan meets the requirements of the zoning code, that the proposed uses are permitted in commercial zoning districts, and that only preliminary approval should be considered since the staff has not received any required agency approvals or permits.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary.

7. Tunnell Companies, L.P.

The Commission was scheduled to review the preliminary site plan for the Baywood manufactured home park and golf course.

Mr. Abbott advised the Commission that there is an error on the site plan and that no action should be taken at this time.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to defer action.

IV. OLD BUSINESS

1. Subd. #95-6--Alvin C. Bunting & Lesley Burgess

No one was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 4.60 acres into 4 lots, located on the northwest side of Road 266, 0.4 mile north of Road 266A.

Mr. Abbott advised the Commission that the final record plat has the same layout as the one that received preliminary approval on June 27, 1995, that the final record plat is in compliance with the Subdivision Code, and that all required agency approvals and permits have been obtained.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve as a final.



2. Ocean Ridge West

Doug Jones, Surveyor, and Glen Piper, Project Manager, were present as the Commission reviewed a revised record plat of Phase 1 and the final record plat for Phase 2 of Ocean Ridge West Residential Planned Community.

Mr. Abbott advised the Commission that the revision in Phase 1 is to allow for an open area and that the total number of lots in Phase 2 is 69, that all required agency approvals have been obtained, and that the final record plats are in compliance with the Subdivision and Zoning Codes.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the record plats as a final.

Meeting adjourned at 10:40 PM.